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PC-OC Mod (2018)07

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMMITTEE OF EXPERTS
ON THE OPERATION OF EUROPEAN CONVENTIONS
ON CO-OPERATION IN CRIMINAL MATTERS
(PC-OC)

**List of decisions taken at the 26th meeting of the restricted Group of experts
on international co-operation (PC-OC Mod) enlarged to all PC-OC members
under the Chairmanship of Mr Erik Verbert (Belgium)
25-27 September 2018**

1. Opening of the meeting and adoption of the agenda

After the opening of the meeting by the Chair, the agenda was adopted as reflected on the website.

2. Points for information of relevance to the work of the PC-OC

a. Activities of the T-CY: development of a second additional protocol to the Convention on Cybercrime

The PC-OC Mod took note of the information provided by Mr Alexander Seger, Head of the Cybercrime Division as regards the progress made in the drafting of the second additional protocol to the Budapest Convention. The last meeting of the Protocol Drafting Plenary of the T-CY took place on 10 and 11 July 2018, with the participation of Ms Gabriela Blahova (Czech Republic) on behalf of the PC-OC. The PC-OC will be consulted on the provisions related to mutual legal assistance (MLA) as soon as the drafts are available at the end of November 2018. These concern draft provisions on the use of languages, emergency MLA and the use of videoconferences.

b. Projects to enable electronic transmission of requests for international co-operation: INTERPOL E-MLA and Treaty by COMJIB

The PC-OC Mod also took note of the on-going work of the INTERPOL working group on E-MLA, whose work is followed by Mr Per Hedval (Sweden) on behalf of the PC-OC, as well as on the Treaty, adopted in January 2018 by the Conference of Ministers of Justice of Iberamerican States (COMJIB) on the Electronic Transmission of International Legal Cooperation Requests between Central Authorities. The date of the opening for signature of the Treaty is not yet known.

3. Presentation and content of the PC-OC website

a. Country information and contact points

The PC-OC Mod was satisfied to note the modernisation of the restricted website of the PC-OC. The information for each subject covered is now presented country by country, facilitating the overview. Also the forum received a new platform, facilitating the possibility to upload documents and to be notified when a new item is posted.

As regards the information on the public website, the PC-OC Mod noted that country information on the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS N°141) is still missing for an important number of Parties.

The PC-OC Mod decided to encourage experts to make active use of the forum and to continue inviting them to update or provide country information and contact points as well as information on bilateral treaties of relevance to the Committee.

b. Update of the index and summaries of relevant case law of the ECtHR

The PC-OC Mod considered the proposals made by Mr Miroslav Kubicek (consultant, Czech Republic) to update the index and summaries of case law of the ECtHR, thanked Mr Kubicek for his excellent work and decided to agree with his proposals, ask him to complete it with recent judgments and decisions by the Court (for example X vs the Netherlands 1439/17 of 10 July 2018) and to update the document accordingly.

4. Implementation of the Action Plan on Transnational Organised Crime (TOC)

a. Outcome of the work of the PC-OC working groups to limit reservations to CoE treaties within the remit of the PC-OC

The PC-OC Mod noted that the work undertaken by the three working groups A, B and C engaged in the identification of reservations and declarations that are possibly outdated and/or create obstacles to efficient co-operation, in particular as regards the fight against TOC, was finalised for the groups A and C. The work in group B, dealing with mutual assistance in criminal matters, is almost finalised.

The PC-OC Mod decided to:

- ask the Secretariat, as soon as the work of group B is finalised, to send out the letters inviting PC-OC experts and participants from other States Parties to the Conventions within the remit of the Committee to consult the competent authorities in their countries about the need or possibility to amend or withdraw certain declarations or reservations. Attention is drawn to the list of reservations and declarations identified by the working groups for their country;
- invite the co-ordinators of the working groups to present their working methods and findings to the plenary;

- propose that the plenary discuss how the reporting on the follow up given to the letters could best be organised.

5. European Convention on Extradition

a. Proposals for follow up to the special session on extradition to celebrate the 60th anniversary of the Convention

The PC-OC Mod considered the outcome of the special session and shared the opinion that such sessions are very useful in highlighting and discussing important issues of common concern in daily practice. In addition, it was felt that the outcome of such thematic sessions help in finding solutions to problems encountered and are a useful source of inspiration for future standard-setting activities.

The PC-OC Mod decided to propose that the plenary devotes a special session to the European Convention on Mutual Assistance in Criminal Matters in 2019 when this Convention reaches its 60th anniversary.

b. Consideration of draft guidelines on the provision of timely information to the Parties requesting extradition on the detention or measures of restriction imposed on the person sought

The PC-OC Mod considered the draft guidelines, taking into account the discussions held during the plenary, and agreed on the text as contained in Doc PC-OC (2018)02 rev2.

It was decided to submit the draft guidelines to the plenary for consideration and adoption.

c. Possible consequences of the Petruhhin judgment of the CJEU

The PC-OC Mod further discussed the consequences of the Petruhhin judgment, taking into account the discussion paper by Mr Erik Verbert (Doc. PC-OC Mod(2018)06) regarding an upcoming judgment of the CJEU concerning a request for extradition of a EU citizen, Mr Raugevicius, by a non EU member State for the purpose of the execution of a sentence.

The PC-OC Mod decided to continue to follow this issue which is essential for the application of the European Convention of Extradition.

6. Mutual Assistance in Criminal Matters

a. Examination of the updated replies to the questionnaire on legal and practical aspects of the use of videoconferences

The PC-OC Mod, noting that until now only seven updates had been received, decided to:

- invite PC-OC experts who had not yet done so to complete or update the inquiry conducted in 2012 on legal and technical aspects of the use of video conferences in mutual legal assistance in criminal matters

7. Convention on the Transfer of Sentenced Persons

a. Examination of the preliminary draft recommendation on the transfer of sentenced persons

The PC-OC Mod considered a preliminary draft recommendation prepared by the Secretariat based on the discussion in the plenary and the written comments received.

The experts proposed some amendments to the text and decided to submit the draft recommendation to the plenary for further consideration.

8. Exchange of views on possibilities to improve the efficiency of working methods of the PC-OC

The PC-OC Mod had an exchange of views on their working methods. Experts shared the opinion that the Committee fulfils an essential task in evaluating the application of 13 fundamental and widely ratified treaties on international co-operation in criminal matters and in proposing practical and legal solutions to problems raised in their application.

In this context it is proposed to continue improving the working methods adopted in the last years and in particular as regards:

- its transversal approach in co-operating with other Council of Europe Committees (such as the T-CY, COP 198 and the Pompidou Group) and with other bodies (such as the EJM, IberRed and INTERPOL);
- the organisation of special sessions devoted to a particular Convention or theme of relevance;
- the development of the website so as to make it more useful and user-friendly for practitioners;
- an increased use of the forum to exchange information and questions of common concern;
- an increased use of the possibility to draft documents on the collaborative space of its website in between meetings.

The PC-OC Mod also felt that information available in background papers on the agenda would not need to be repeated during the meeting.

9. Any other business

The PC-OC Mod took note that the vice-Chair of the Committee, Ms Laurence Fontana Jungo (Switzerland), will not be available for a second term.